

**IN THE UNITED STATES DISTRICT COURT FOR
THE SOUTHERN DISTRICT OF WEST VIRGINIA**

HUNTINGTON DIVISION

JOHNNY FINLEY
o/b/o TERESA G. FINLEY,

Plaintiff,

v.

CIVIL ACTION NO. 3:12-7908

CAROLYN W. COLVIN,
Acting Commissioner of the
Social Security Administration,

Defendant.

MEMORANDUM OPINION AND ORDER

This action was referred to the Honorable Cheryl A. Eifert, United States Magistrate Judge, for submission to this Court of proposed findings of fact and recommendations for disposition, pursuant to 28 U.S.C. § 636(b)(1)(B). The Magistrate Judge has submitted findings of fact and recommended that the Court grant Plaintiff's motion for a remand (ECF No. 12); deny Defendant's Motion for Judgment on the Pleadings (ECF No. 13); reverse the final decision of the Commissioner; remand this matter pursuant to sentence four of 42 U.S.C. § 405(g) for further administrative proceedings to determine if Claimant's liver, spleen, or mental impairments, in the absence of substance abuse, constitute an "additional and significant work-related limitation of function" under listing 12.05C; and dismiss this action from the docket of the Court. Neither party has filed objections to the Magistrate Judge's findings and recommendations.

Accordingly, the Court accepts and incorporates herein the findings and recommendation of the Magistrate Judge and **GRANTS** Plaintiff's motion for a remand (ECF No. 12); **DENIES** Defendant's Motion for Judgment on the Pleadings (ECF No. 13); **REVERSES** the final decision of the Commissioner; **REMANDS** this matter pursuant to sentence four of 42 U.S.C. § 405(g) for further administrative proceedings to determine if Claimant's liver, spleen, or mental impairments, in the absence of substance abuse, constitute an "additional and significant work-related limitation of function" under listing 12.05C; and **DISMISSES** this action from the docket of the Court, consistent with the findings and recommendations.

The Court **DIRECTS** the Clerk to send a copy of this Order and Notice to counsel of record and any unrepresented parties.

ENTER: December 5, 2013



ROBERT C. CHAMBERS, CHIEF JUDGE